

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

**ANDREW L. COLBORN,**

**Plaintiff,**

**vs.**

**NETFLIX, INC.; CHROME MEDIA LLC,  
F/K/A SYNTHESIS FILMS, LLC;  
LAURA RICCIARDI; AND MOIRA  
DEMOS,**

**Defendants.**

**Civil No.: 19-CV-484-BHL**

**SUPPLEMENTAL JOINT RULE 26(f) REPORT**

Pursuant to Federal Rule of Civil Procedure 26(f), Local Rule 16(a) and the Court's June 28, 2021 Notice of Rule 16(b) Telephone Scheduling Conference (Dkt. 183), Plaintiff Andrew L. Colborn and Defendants Netflix, Inc., Chrome Media LLC f/k/a Synthesis Films LLC, Laura Ricciardi, and Moira Demos<sup>1</sup> submit this Supplemental Joint Rule 26(f) Report and Discovery Plan after conferring on July 7, 2021.

Previously, on June 1, 2020, the parties submitted a Joint Rule 26(f) Report (the "Initial Report"), Dkt. 141, which is incorporated herein by reference and a copy of which is attached hereto as Exhibit A. At that time, Netflix's Rule 12(b)(6) motion and the Producer Defendants' Rule 12(b)(5) motion remained pending. As a result, the parties' Initial Report did not set forth a proposed trial schedule. As the Court has now ruled on those motions, and consistent with this Court's June 28, 2021 Notice, the parties now provide this Supplemental

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<sup>1</sup> Chrome Media, Ricciardi, and Demos are referred to collectively as the "Producer Defendants."

Joint Rule 26(f) Report (the “Supplemental Report”), which contains a proposed trial schedule and also updates certain information from the Initial Report in light of intervening events in the case. To the extent, if any, that there are any conflicts between the Initial Report and this Supplemental Report, this Supplemental Report applies.

## **I. CONTEMPLATED MOTIONS.**

Both Netflix and the Producer Defendants anticipate filing motions for summary judgment at the appropriate time.

## **II. DISCOVERY PLAN**

### **A. Federal Rule of Civil Procedure 26(f)(3)**

- 1. Changes to the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made.**

The parties do not seek any modifications to the discovery rules. All parties have already made initial disclosures.

- 2. Subjects on which discovery may be needed, when discovery should be completed and whether discovery should be conducted in phases or be limited to particular issues.**

The parties refer to their Initial Report.

- 3. Any issues concerning the disclosure, discovery or preservation of electronically stored information (“ESI”), including the form in which it should be produced.**

The parties refer to their Initial Report.

- 4. Any issues about claims of privilege or of protection as trial-preparation materials, including – if the parties agree on a procedure to assert these claims after production – whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502.**

The parties refer to their Initial Report.

5. **What changes should be made in the limitations on discovery imposed by federal or local rules, and what other limitations should be imposed.**

The parties refer to their Initial Report.

6. **Any other orders that the Court should include under Rule 26(c) or under Rule 16(b) and (c).**

The parties refer to their Initial Report.

**B. Local Rule 16(a)(1)**

1. **Amount of Further Discovery Each Party Contemplates.**

The parties refer to their Initial Report.

2. **Approximate Time for Completion of Discovery.**

*See infra*, Section V, where the parties provide a proposed case schedule.

3. **Disputes Regarding Discovery.**

The parties refer to their Initial Report.

**III. CONFIDENTIALITY AND PROTECTIVE ORDERS**

The Parties will make a good faith effort to resolve any disputes concerning confidentiality or claims of privilege. Netflix and the Producer Defendants assert that confidential information will be exchanged in discovery and the parties are prepared to submit an appropriate Protective Order based on the Eastern District of Wisconsin's Model Protective Order for review by the Court.

**IV. SETTLEMENT**

On January 5, 2021, the Court ordered the case referred to mediation before Magistrate Judge William E. Duffin. Dkt. 172. While the parties participated in the mediation in good faith before Judge Duffin on March 9, the case ultimately did not settle. No additional settlement discussions have been had since that time.

**V. PROPOSED SCHEDULE**

<b>Event</b>	<b>Proposed Deadline</b>
Fact Discovery Cutoff	April 8, 2022
Plaintiff's Expert Disclosures and Reports	April 29, 2022
Defendant's Expert Disclosures and Reports	May 26, 2022
Expert Discovery Cutoff	July 26, 2022
Last Day to File and Serve Motions for Summary Judgment or any other dispositive motions	May 13, 2022
Final Pretrial Conference	October 24, 2022
Suggested Trial Date	November 7, 2022 (estimate: 2 weeks)

Dated: July 21, 2021

Respectfully submitted,

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Dated: July 21, 2021

Respectfully submitted,

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Dated: July 21, 2021

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